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SENATE BILL 732 By
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HOUSE BILL 1419
By Buttry

AN ACT to amend Tennessee Code Annotated, Title 63, to enact the "Patient Hearing Health Improvement Act of 2003".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 17, is amended by adding the following as a new part 3:

63-17-301. This part shall be known as the "Patient Hearing Health Improvement Act of 2003."

63-17-302. For purposes of this part, unless the context requires otherwise:

(1) "Appropriately trained person" means support personnel or staff who assist a physician in office procedures which may include hearing and balance testing and related services provided under the direction and general supervision of a physician licensed to practice medicine in this state.

(2) "General supervision" means the procedure is furnished under the physician's overall direction and control, but the physician's presence is not required during the performance of the procedure. Under general supervision, the competency of the nonphysician personnel and the maintenance of the necessary equipment and supplies the continuing responsibility of the physician.

63-17-303. Nothing in this part shall be construed as to prevent or restrict the following:

(1) The hearing or balance testing or any other act conducted by licensed physicians within the scope of their licensed profession or by appropriately trained persons conducting such tests or other acts under the supervision of the physician; or

(2) A person licensed under any other law of this state from engaging in the profession or occupation for which such person is licensed.

63-17-304.

(a) Hearing loss and balance disorders are medical conditions. A referral to a licensed physician for medical evaluation and diagnosis shall be required for specified otologic conditions presented by a patient or detectable through a hearing test. Such otologic conditions shall incorporate the "red flag" warning signs of ear diseases in the United States food and drug administration regulations on hearing instrument devices.

(b) A hearing healthcare provider or other person testing hearing shall immediately advise the person being tested to consult promptly with a licensed physician, preferably a physician specializing in diseases of the ear, if such healthcare provider determines through inquiry, actual observation, or review of any other available information concerning the person being tested, that the person has any of the following conditions, including, but not limited to:

(1) Hearing loss with a positive history of congenital or familial hearing loss, TB, syphilis, HIV, Meniere's disease, autoimmune disorder, otosclerosis, von Recklinghausen's neurofibromatosis, Paget's disease of bone, or head trauma related to onset;

(2) History of pain, active drainage, or bleeding from an ear;

(3) Sudden onset or rapidly progressive hearing loss;

(4) Acute, chronic, or recurrent episodes of dizziness;

(5) Evidence of congenital or traumatic deformity of the ear;

(6) Visualization of blood, pus, cerumen plug, or foreign body in the ear canal;

(7) Conductive hearing loss or abnormal tympanogram;

(8) Unilateral or asymmetric hearing loss; or bilateral hearing loss at least 70 dB;

(9) Unilateral or pulsatile tinnitus;

(10) Unilateral, bilateral, or asymmetrical poor speech discrimination scores;

(11) Other signs or symptoms, that in the healthcare provider's best judgment, necessitate the need for medical consultation.

(c) A hearing instrument shall not be fitted until medical clearance is obtained for the condition noted or a waiver of such medical clearance is provided by a person eighteen (18) years of age or older for the limited reason of a religious objection to being treated by a physician.

(d) A consumer shall not be required to obtain medical clearance for the repurchase of a hearing instrument once a medical evaluation and clearance has been obtained for certain otologic conditions that are permanent and will be reidentified at each hearing assessment. Such conditions should include, but not be limited to the following:

(1) Visible congenital or traumatic deformity of the ear;

(2) Hearing loss as a secondary condition;

(3) Unilateral or asymmetric hearing loss, assuming no change in thresholds;

(4) Audiometric air-bone gap equal to or greater than 15 decibels at 500 hertz (Hz), 1,000 Hz, and 2,000 Hz; or

(5) Bilateral hearing loss of greater than 90 dB.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it.